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9 BA SPORTS NUTRITION, LLC

10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13

14 MARC SILVER, HEATHER PEPPER,
15 DONOVAN MARSHALL, ALEXANDER
HILL, individually and on behalf of all others
similarly situated,

16 Plaintiffs,

17 v.

18 BA SPORTS NUTRITION, LLC,

19 Defendant.
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Case No. 3:20-cv-00633-SI

**DECLARATION OF MATTHEW
BORDEN IN SUPPORT OF DEFENDANT
BA SPORTS NUTRITION, LLC'S
MOTION TO DISMISS THE FIRST
AMENDED COMPLAINT PURSUANT
TO RULE 12(B)(6)**

Date: August 28, 2020
Time: 10:00 a.m.
Judge: Hon. Susan Illston
Court Rm.: 1


1 I, Matthew Borden, declare:

2 1. I am an attorney licensed to practice before this Court and am counsel of record for
3 Defendant BA Sports Nutrition, LLC (“BodyArmor”) in the above-captioned action. I make this
4 declaration based on personal knowledge. If called as a witness, I could, and would, testify
5 competently to the facts stated herein.

6 2. Attached as **Exhibit 1** is a true and correct copy of an advertisement posted by
7 Plaintiffs’ lawyers on TopClassActions.com, titled “BodyArmor SuperDrink Class Action
8 Investigation” and dated November 25, 2019. The advertisement was retrieved using the Internet
9 Archive Wayback Machine at web.archive.org.

10 I declare under penalty of perjury under the laws of the United States that the foregoing is
11 true and correct.

12
13 Dated: July 21, 2020



Matthew Borden

EXHIBIT 1



BodyArmor SuperDrink Class Action Investigation

FOLLOW ARTICLE

By Top Class Actions
November 25, 2019

Who’s Affected?



Did you purchase BodyArmor SuperDrink?

Sports drinks are big business in the United States. Sports drinks sales are estimated to be around \$6.6 billion annually. Nevertheless, substantial concerns have been raised about their efficacy and link to disease.

BA Sports Nutrition (“BA”), the maker of BodyArmor SuperDrink, is one of the largest sports drink retailers in the country. BA reported approximately \$400 million in sales for 2018.

GET HELP – IT’S
FREE



Join a Free BodyArmor Class Action Lawsuit Investigation

If you qualify, an attorney will contact you to discuss the details of your potential case at no charge to you.

PLEASE NOTE: If you want to participate in this investigation, it is imperative that you reply to the law firm if they call or email you. Failing to do so may result in you not getting signed up as a client or getting you dropped as a client.

Start a Class Action

E-mail any problem
form to:
Questions@TopClassActions.com.

First Name *

However, the company may be misleading its customers about the benefits of drinking BodyArmor SuperDrink.

Indeed, BA recently was forced to defend itself against deceptive marketing claims before the complaints division of the Better Business Bureau, called the NAD. The NAD agreed with the complaints and recommended, on multiple occasions, that BA alter BodyArmor marketing by dropping several claims, but BA refuses to do so. Its retail sales doubled in 2018.

If you purchased BodyArmor SuperDrink for yourself or your kids, you may qualify to join this BodyArmor false advertising class action lawsuit investigation.

Learn more by filling out the short form on this page.

BodyArmor SuperDrink False Advertising Class Action Lawsuit Investigation

BA Body Armor Super Drink purports to provide “SUPERIOR HYDRATION” as compared to other beverages.

Attorneys working with Top Class Actions are investigating whether BA lacks sufficient scientific evidence to back up such claims, which may render their labeling and advertising

Last Name *

Street Address *

City *

State *

Alabama

Zip Code *

Phone *

Email *

Are you willing to speak with an attorney about this situation? *

☐

Yes

☐

No

deceptive and unlawful.

They are also investigating other important matters with respect to their advertising, including the implication that BodyArmor SuperDrink is good for your body and health.

If you purchased Body Armor Super Drink, you may qualify to join this false advertising class action lawsuit investigation.

See if you qualify by filling out the form on this page.

What is your preferred form of contact with the attorney? *

- ☐ Email
- ☐ Phone

Did you purchase BodyArmor SuperDrink? *

- ☐ Yes
- ☐ No

What drink(s) did you purchase? *

When did you purchase BodyArmor Sports Drink? *

Please include additional details.

¿Necesita un orador español?

☐ Sí

☐ No

Get Our Newsletter

We tell you about cash you can claim every week! Subscribe to our free newsletter today.

☐ Yes, sign me up!

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☐ I understand and agree

After you fill out the form, the attorneys who work with Top Class Actions will contact you if you qualify to let you know if an individual lawsuit or class action lawsuit is best for you.

ATTORNEY ADVERTISING

The choice of a lawyer is an important decision and should not be based solely on advertisements.

Counsel responsible for this advertisement:

Kaplan Fox & Kilsheimer LLP

Reese LLP

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